

TISBURY PLANNING BOARD RULE REGARDING CONSULTANT FEES

The following Rule is adopted, pursuant to G.L. c.40A, §9 and G.L. c.44, §53G.

1. When reviewing an application for, or when conducting inspections in relation to, a request for special permit or site plan approval, or other matter within its jurisdiction under the Tisbury Zoning Bylaws, the Planning Board ("Board") may determine that the assistance of outside consultants is warranted due, for instance and without limitation, to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the matter before the Board. The Board may require that an Applicant deposit a lump sum in order to retain such consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.

2. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, lawyers, urban designers or other appropriate professionals, who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, standards and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, evaluating documents submitted in connection with an application or as a condition of approval, or inspecting a project during construction or implementation.

3. Funds received by the Board pursuant to this section shall be deposited with the Treasurer/Collector, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the application. Alternatively, approval of such application may be conditioned upon payment of any outstanding review fees.

4. At the completion of the Board's review of a project, including any post-approval inspections, evaluations, and reviews deemed appropriate by the Board to ensure compliance with such approval, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest upon request. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation reasonably satisfactory to the Board and/or its counsel, establishing such succession in interest.

5. Any applicant may take an administrative appeal from the selection of the outside consultant(s) to the Select Board. Such appeal must be made in writing and may be taken only within 20 days after the Board has notified the applicant of the selection by mail, hand delivery, electronic mail or verbally at a meeting of the Board. The grounds for such an appeal shall be limited to claims that the consultant(s) selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within thirty days following the filing of the appeal, the selection made by the Board shall stand.